

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff,

v.

JEFF S. SMITH

Defendant.

Civil Action No. 17-CV-5808 (CS)

**NOTICE OF MOTION TO VACATE
TEMPORARY RESTRAINING ORDER
AND DENY IBM'S REQUEST FOR A
PRELIMINARY INJUNCTION OR, IN
THE ALTERNATIVE, TO PRECLUDE
IBM FROM PRESENTING EVIDENCE
AT THE PRELIMINARY
INJUNCTION HEARING**

PLEASE TAKE NOTICE that, upon the accompanying Supplemental Proposed Findings of Fact and Conclusions of Law and the Declaration of Sarah E. Bouchard in Support of the Supplemental Proposed Findings of Fact and Conclusions of Law, with the exhibits attached thereto, and upon all prior proceedings had herein, Defendant Jeff Smith will move this Court before the Honorable Cathy Seibel, United States District Judge, at the Hon. Charles L. Brieant Jr. Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York, on a date and at a time to be determined by the Court, for an Order seeking to vacate the temporary restraining order and deny IBM's request for a preliminary injunction or, in the alternative, to preclude IBM from presenting evidence at the preliminary injunction hearing, and for such other and further relief as the Court may deem just and proper.

Dated: August 16, 2017
New York, New York

MORGAN, LEWIS & BOCKIUS, LLP

/s/ Sarah E. Bouchard

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